

10-06-05

DHE  
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Practitioner's Docket No. 014518-0261607

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Michael A. Giardello et al.

Application No.: 09 / 312,811 Group No.: 1713

Filed: May 17, 1999

Examiner: Teskin, F.

For: POLYOLEFIN COMPOSITIONS OPTIONALLY HAVING VARIABLE TOUGHNESS AND/OR HARDNESS

## Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

PETITION TO REVIVE APPLICATION ABANDONED UNINTENTIONALLY  
FOR FAILURE TO REPLY TO A FINAL REJECTION

1. This application became abandoned on April 19, 2003.

NOTE: Extensions under 37 C.F.R. § 1.136 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of § 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. Thus: An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival. M.P.E.P. § 711.03(c), 6th ed., rev. 2.

2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional 37 C.F.R. § 1.137(b)(3).

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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- ☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10\*

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☒ as "Express Mail Post Office to Addressee"Mailing Label No. EV698246024US (mandatory)

## TRANSMISSION

- ☐ facsimile transmitted to the Patent and Trademark Office, (571) 273-8300.

Signature

Diana Dearing

(type or print name of person certifying)

Date:

10/4/06

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Petition to Revive Application Abandoned Unintentionally for Failure to Reply to a Final Rejection [11-7])

page 1 of 3)

10/10/2006 AWONDAF1 00000117 033975 09312811

01 FC:1453

1500.00 DA

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Copied from 10312811 on 11/06/2006

3. Reply

With respect to the outstanding requirements applicant

☐ has filed on \_\_\_\_\_.

☒ files herewith

(complete the appropriate item below)

- ☐ a Notice of Appeal and appeal fee.
- ☐ an amendment under 37 C.F.R. § 1.116 that cancels all rejected claims or otherwise prima facie places the application in condition for allowance.
- ☒ a request for continued examination (RCE) accompanied by a submission and the requisite fee) under 37 C.F.R. § 1.114.

4. Fee (37 C.F.R. § 1.17(m))

Applicant's status is:

- ☐ Small entity — fee \$750.00
- ☐ A statement is attached.
- ☐ A statement was filed on \_\_\_\_\_.

☒ Other than a small entity — fee \$1,500.00

5. Fee Payment

☐ Attached is a ☐ check ☐ money order In the amount of \$ \_\_\_\_\_

☒ Authorization is hereby made to charge the amount of \$ 2,290.00

☒ to Deposit Account No. 03-3975

☐ to Credit card as shown on the attached credit card Information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.
- ☐ A duplicate of this paper is attached.

6. Showing

(complete the following, if applicable)

- ☐ Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. § 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997); Section 711.03(c), MPEP, 8th Edition, Rev.2).
- ☒ Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997); Section 711.03(c), MPEP, 8th Edition, Rev.2). See Attachment A.

## 7. Terminal Disclaimer

NOTE: 37 C.F.R. § 1.137(d):

(d) Terminal disclaimer.

(1) Any petition to revive pursuant to this section in a design application must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any petition to revive pursuant to this section in either a utility or plant application filed before June 8, 1995, must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of:

(i) The period of abandonment of the application; or

(ii) The period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed.

Since this application is a design application a terminal disclaimer and the fee set forth in § 1.321 accompanies this petition.

Date: October 4, 2006

  
\_\_\_\_\_  
(Signature of person making statement that  
abandonment was unintentional)

David H. Jaffer

\_\_\_\_\_  
(type or print name of person making statement)

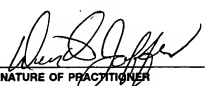
Pillsbury Winthrop Shaw Pittman LLP

\_\_\_\_\_  
Residence of person making statement

Intellectual Property Group

\_\_\_\_\_  
P. O. Box 10500

McLean, VA 22102

  
\_\_\_\_\_  
SIGNATURE OF PRACTITIONER

David H. Jaffer

\_\_\_\_\_  
(type or print name of practitioner)

Pillsbury Winthrop Shaw Pittman LLP

\_\_\_\_\_  
Intellectual Property Group

\_\_\_\_\_  
P.O. Address

P. O. Box 10500

McLean, VA 22102

Reg. No. 32,243

Tel. No. (650) 233-4510

Customer No. 27498

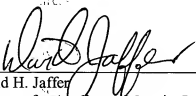
(Petition to Revive Application Abandoned Unintentionally for Failure to Reply to a Final Rejection [11-7]—  
page 3 of 3)

Attachment A

This application went abandoned on April 19, 2003, for failure to respond to a final Office Action mailed November 19, 2002. A response to the Office Action was filed on April 16, 2003, with a two-month extension request but the response was rejected as not putting the application in condition for allowance. A Notice of Abandonment was mailed on June 18, 2003, but was not received because it was mailed to an old address.

Applicants' counsel filed status inquiries on November 19, 2003, and August 17, 2004, but did not receive a response from the Patent Office. See attachments. A copy of the Notice of Abandonment was finally faxed to the office of Applicants' counsel on November 7, 2005, but Applicants' counsel unintentionally failed to file a petition to revive this application. In a review of this file while preparing a status report this week, the undersigned discovered that a petition to revive this application had inadvertently not been filed. This application was unintentionally abandoned and the delay in filing this petition was also unintentional.

Dated: October 4, 2006

  
\_\_\_\_\_  
David H. Jaffer  
Attorney for Applicant, Materia, Inc.  
*Reg. No. 32,243*



UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael A. Giardello Docket No.: 14518-0261607  
Serial No.: 09/312,811 Group Art Unit: 1713  
Filed: May 17, 1999  
Title: **POLYOLEFIN COMPOSITIONS OPTIONALLY HAVING VARIABLE TOUGHNESS AND/OR HARDNESS**

**APPLICATION STATUS INQUIRY**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

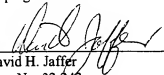
Dear Sir:

Applicant received an Advisory Action for this application on May 23, 2003. This is the last correspondence received from the Patent Office regarding this application. The application had already gone abandoned by the time we received the Advisory Action. I spoke to the Examiner on May 30, 2003, who informed me we would need to file a Petition to Revive along with a Request for Continued Examination. We have been waiting for the Notice of Abandonment in order to file the Petition to Revive. The correspondence address was incorrect. On July 30, 2003, in response to a telephone inquiry from Pam Armsfield of the Patent Office, we faxed a Change of Correspondence Address to Ms. Armsfield at (703) 306-3186 (copy enclosed for your reference).

Applicant respectfully requests a report on the status of this case, filed on May 17, 1999.

Please acknowledge receipt of this request by stamping the date on the enclosed, self-addressed stamped postcard.

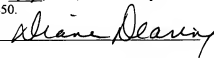
Date: 11-19-03

  
David H. Jaffer  
Reg. No. 32,243  
Customer No. 27498

PILLSBURY WINTHROP LLP  
2550 Hanover Street  
Palo Alto, CA 94304-1115  
Telephone: (650) 233-4510  
Facsimile: (650) 233-4545  
Email: [djaffer@pillsburywinthrop.com](mailto:djaffer@pillsburywinthrop.com)

CERTIFICATION OF MAILING

I, Diana Dearing, hereby certify that this correspondence and the documents referred to as attached hereto are being deposited with the United States Postal Service on this date November 19, 2003, in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.



THE STAMP OF THE U.S. PATENT & TRADEMARK OFFICE Docket # 14518-0261607  
HEREON ACKNOWLEDGES RECEIPT OF THE FOLLOWING: ☐ TM/SM ☐ PATENT

Applicant/Patentee: GIARDELLI

Serial/Paten/Reg #: 09/312811

Filed/Issued: 5/17/99

For: Polyolefin Compositions Optionally Having Variable Toughness...

☒ Transmittal

☐ Extension Request

☐ Specification/Application

☐ Trademark/Service Mark Specimen

☐ Sheet(s) Formal/informal Drawing(s)

☐ Certified \_\_\_\_\_ Application

☐ Declaration & Power of Att'y

☐ Verified Statement

☐ Assignment

☐ Information Disclosure Statement

☐ Amendment

☐ Express Mail No.

☐ Check No. \_\_\_\_\_ for \$ \_\_\_\_\_

☒ Other: STATUS INQUIRY

Date: 11-19-03

By: D. Deering





## PILLSBURY WINTHROP LLP

2550 HANOVER STREET PALO ALTO, CA 94304-1115 650.233.4500 F: 650.233.4545

## FACSIMILE

Total Pages (including cover): --2--

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Date: July 30, 2003

Must Be Sent By:

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Fax No: 703-306-3186

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ORANGE COUNTY

SACRAMENTO

Confirm:

Confirmed By:

SAN DIEGO

SAN FRANCISCO

SILICON VALLEY

From: David H. Jaffer

Phone No: (650) 233-4510

SINGAPORE

User No: 14156

C/M No: 014518-0261607 (ASM-  
110)

STAMFORD

SYDNEY

TOKYO

Comments:

WASHINGTON DC

Re: Change of Correspondence Address for U.S. Patent Application No.  
09/312,811 for **POLYOLEFIN COMPOSITIONS OPTIONALLY  
HAVING VARIABLE TOUGHNESS AND/OR HARDNESS**

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## CHANGE OF CORRESPONDENCE ADDRESS

## PATENT

Applicant: Michael A. Giardello et al. Docket No.: 014518-0261607  
 Serial No.: 09/312,811 Group Art Unit: 1713  
 Filing Date: May 17, 1999  
 Title: **POLYOLEFIN COMPOSITIONS OPTIONALLY HAVING VARIABLE TOUGHNESS AND/OR HARDNESS**

Commissioner of Patents and Trademarks  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Please change the correspondence address for the above-identified application as follows:

<u>Old Address</u>	<u>New Address</u>
Pillsbury Madison & Sutro Intellectual Property Group 1100 New York Avenue NW Ninth Floor East Tower Washington, DC 20005-3918	David H. Jaffer Pillsbury Winthrop LLP 2550 Hanover Street Palo Alto, CA 94304-1115  Telephone: (650) 233-4510 Facsimile: (650) 233-4545

This request is made by the undersigned who was appointed as Applicant's attorney. If there are any questions regarding this application, the Examiner is invited to call the undersigned at (650) 233-4510.

Respectfully submitted,

Dated:

July 30, 2003

David H. Jaffer  
 David H. Jaffer, Reg. No. 32,243  
 Pillsbury Winthrop

I, Judy Keeley, hereby certify that this correspondence is being transmitted via facsimile to 703-306-3186, Attention Pam Armsfield, addressed to Commissioner for Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450 on July 30, 2003.

Judy Keeley



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From:	David H. Jaffer	Phone No:	(650) 233-4510
User No:	14156	C/M No:	014518-0261607 (ASM-110)

Comments:  
Re: Change of Correspondence Address for U.S. Patent Application No. 09/312,811 for POLYOLEFIN COMPOSITIONS OPTIONALLY HAVING VARIABLE TOUGHNESS AND/OR HARDNESS

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60328450V1

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael A. Giardello                      Docket No.: 14518-0261607  
Serial No.: 09/312,811                                  Group Art Unit: 1713  
Filed: May 17, 1999                                      Examiner: Teskin, F.  
Title: **POLYOLEFIN COMPOSITIONS OPTIONALLY HAVING VARIABLE  
TOUGHNESS AND/OR HARDNESS**

**APPLICATION STATUS INQUIRY AND  
CHANGE OF CORRESPONDENCE ADDRESS**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant filed a previous status inquiry on November 19, 2003. We have received no response to this inquiry to date. We have also enclosed a Change of Correspondence Address for this application.

**BACKGROUND**

Applicant received an Advisory Action for this application on May 23, 2003. This is the last correspondence received from the Patent Office regarding this application. The application had already gone abandoned by the time we received the Advisory Action. I spoke to the Examiner on May 30, 2003, who informed me we would need to file a Petition to Revive along with a Request for Continued Examination. We have been waiting for the Notice of Abandonment in order to file the Petition to Revive. The correspondence address was incorrect. On July 30, 2003, in response to a telephone inquiry from Pam Armsield of the Patent Office, we faxed a Change of Correspondence Address to Ms. Armsield at (703) 306-3186 (copy enclosed for your reference). However, we have moved since this date and a new Change of Correspondence address is enclosed.

Applicant respectfully requests a report on the status of this case, filed on May 17, 1999.

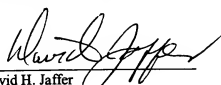
August 17, 2004

Page 2

Re: Serial No. 09/715,853

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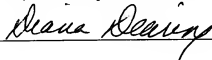
Date: 8-17-04

  
David H. Jaffer  
Reg. No. 32,243  
Customer No. 27498

PILLSBURY WINTHROP LLP  
2475 Hanover Street  
Palo Alto, CA 94304-1114  
Telephone: (650) 233-4510  
Facsimile: (650) 233-4545  
Email: djaffer@pillsburywinthrop.com

CERTIFICATION OF MAILING

I, Diana Dearing, hereby certify that this correspondence and the documents referred to as attached hereto are being deposited with the United States Postal Service on August 17, 2004, in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

  
Diana Dearing

THE STAMP OF THE U.S. PATENT & TRADEMARK OFFICE Docket: 14518-0261607  
HEREON ACKNOWLEDGES RECEIPT OF THE FOLLOWING: ☐ TM/SM ☐ PATENT

Applicant/Patentee: Chardell

Serial/Patent/Reg. #: 091312, 811

Filed/Issued: 5/17/1999

For: Polyolefin Compositions

- ☒ Transmittal Status Inquiry
- ☐ Specification/Application
- ☐ Sheet(s) Formal/informal Drawing
- ☐ Declaration & Power of Attorney
- ☐ Assignment
- ☐ Amendment
- ☐ Check No. \_\_\_\_\_
- ☐ Extension Request
- ☐ Trademark/Service Mark Specimen
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- ☐ Verified Statement
- ☐ Information Disclosure Statement
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- ☒ Other: Change of Correspondence Address

Date: 8-17-04

By: D. Deaton



## CHANGE OF CORRESPONDENCE ADDRESS Application

Address to:  
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Application Number	09/312,811
Filing Date	May 17, 1999
First Named Inventor	Giardello
Art Unit	1713
Examiner Name	Teskin, F.
Attorney Docket Number	14518-0261607

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<input checked="" type="checkbox"/>	Firm or Individual Name	David Jaffer			
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City	Palo Alto	State	CA	Zip	94304-1114
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I am the:

- ☐ Applicant/Inventor
- ☐ Assignee of record of the entire interest.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).
- ☒ Attorney or Agent of record. Registration Number 32,243
- ☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number \_\_\_\_\_

Typed or Printed Name David Jaffer, Customer No. 27498

Signature  Telephone (650) 233-4510

Date \_\_\_\_\_

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FORMS OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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